

Comments of the Michigan Advocacy Project on HB 5037

Enactment of HB 5037 would significantly alter the landlord-tenant relationship for residential property and the potential liability of a tenant to a local government. It would mark a significant departure from developments in landlord-tenant law in the 20th century and be a reversion to feudal common law standards.

Already, landlords have several remedies for tenant damage to rental property or tenant culpability for violation of state or local property condition standards.¹ HB 5037 would diminish a landlord's ultimate responsibility to its tenants and the state (small "s") for the condition of rental property, which statutory changes in the 20th century (including the housing law of Michigan which it would amend, and the statutory covenants of fitness and reasonable repair at MCL 554.139) had heightened for the purpose of protecting the health and welfare of tenants and the State's housing stock. The corresponding imposition of greater affirmative responsibility on a tenant to the state, and by extension, to the landlord, for property maintenance would transform the dynamics of the landlord-tenant relationship.

A prime example of how HB 5037 would create a major change in these dynamics and a step backwards in Michigan rental housing law is that under it (by adding subsection (5) to Section 74, MCL 125.474) a tenant would be made responsible for keeping the interior and exterior of the rental property in a "safe" condition. The scope of this obligation (and its companion, "sanitary") is not limited. To have to maintain often aged and deteriorated residential rental housing in a safe condition would be cost prohibitive for most tenants. This change would be a quantum shift in the allocation of legal

¹including under the housing law of Michigan, which HB 5037 would amend, the summary proceedings act, at MCL 600.5741 et seq, and the statutory repair covenants at MCL 554.139.

responsibility for the condition of rental property - from landlords to tenants. It would jettison a significant measure of the progress made in the 20th century in this area of the law.

Of course, by design, the effect of HB 5037 would weigh most heavily on tenants, especially low income renter households, who most lack the resources to meet the additional tenant responsibilities for rental property maintenance that it would establish. In 2008, there were more than 1.6 million low income (80% of Area Median Income and below) households in Michigan. More than 700,000 of them were renter households. More than 300,000 of those households were extremely low income. See Michigan's *2011 Consolidated Plan, Housing Needs*, prepared by the Michigan State Housing Development Authority (MSHDA)² According to HUD's most recent *Worst Case Housing Needs* report to Congress, in 2011, more than 90% of extremely low income renter households (\$19,550 and below, for a family of 4 in Ottawa County) without federally assisted housing (there are less than 150,000 such units statewide) pay 50% or more of their income for rent and utilities. See *Worst Case Housing Needs 2011*, August 2013, Table A-4, p. 35 (attached as Exhibit D)³ To radically depart from existing law to impose greater responsibility on already severely cost burdened tenant households would have enormous adverse consequences for them.

HB 5037 would enact an extreme change in Michigan residential rental housing law, which would have the greatest impact on Michigan's most vulnerable households, who would be forced to assume responsibilities that the law long away released them from, at a cost financial and otherwise that they simply could not withstand.

² http://www.michigan.gov/mshda/0,1607,7-141-7559_9643-31319--,00.html) If anything, events since 2008, including a recessionary economy, deeply shaken financial markets, and the ongoing foreclosure crisis, the data for Michigan is probably only more dire.

³ http://www.huduser.org/Publications/pdf/HUD-506_WorstCase2011_reportv3.pdf